

FILED

MAY 27 2004

**NEW JERSEY STATE BOARD
OF MEDICAL EXAMINERS**

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF MEDICAL EXAMINERS

IN THE MATTER OF THE SUSPENSION OR	:	
REVOCATION OF THE REGISTRATION OF	:	Administrative Action
LOIS WEIERSTALL	:	
	:	
	:	PROVISIONAL ORDER
TO PRACTICE ATHLETIC TRAINING	:	OF DISCIPLINE
IN THE STATE OF NEW JERSEY	:	

This matter was opened to the New Jersey State Board of Medical Examiners (Board) upon receipt of information which the Board has reviewed and on which the following preliminary findings of fact and conclusions of law are made;

FINDINGS OF FACT

1. Respondent, Lois Weierstall, is an athletic trainer registered in the State of New Jersey. In her capacity as a licensee, respondent was the athletic trainer for the high school soccer team and the victim was a member of the soccer team.

2. On November 20, 20001, respondent was indicted in

Superior Court of New Jersey, Bergen County, on four Counts of alleged sexual contact and four Counts of sexual assault upon J.M., a minor, whom respondent had supervisory or disciplinary power over, contrary to the provisions of N.J.S.A. 2:C14-2C(3) and 2:C14-3B. (Copy of Indictment is attached).

3. Respondent voluntarily surrendered her registration to practice athletic training pursuant to an Interim Order of Surrender, filed on June 18, 2001, until the Board's review of the resolution of the criminal charges filed against respondent were resolved. (Copy of Interim Order is attached).

4. On or about September 27, 2002, respondent pled guilty to Count Three, second degree crime (for sentencing purposes third degree crime), of the Indictment in violation of N.J.S.A. 2:C14-2C(3). (Copy of Judgement of Conviction and plea transcript is attached). Count Three states that respondent did commit sexual assault upon the victim with a birth date of 8/23/84, by performing an act of sexual penetration, to wit: digital penetration upon the victim, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim.

5. Respondent was sentenced to four (4) years of custody to the Department of Corrections and community supervision for life. (Copy of Judgment of Conviction is attached). Presently, respondent is incarcerated at the Edna Mahon Correctional Facility

in Clinton, New Jersey. Respondent is not again eligible for parole until January 25, 2005.

CONCLUSIONS OF LAW

1. The above guilty plea in New Jersey provides grounds to take disciplinary action against respondent's registration to practice athletic training in New Jersey since respondent pled guilty to a crime involving moral turpitude or relating adversely to the activity regulated by the Board N.J.S.A. 45:1-21(f).

ACCORDINGLY, IT IS on this 27th day of MAY,
2004 ORDERED that:

1. Respondent's registration to practice athletic training in New Jersey is hereby revoked.

2. The within Order shall be subject to finalization by the Board at 5:00 p.m. on the 30th business day following entry hereof unless Respondent requests a modification or dismissal of the above stated Findings of Fact or Conclusions of Law by:

a) Submitting a written request for modification or dismissal to William Roeder, Executive Director, State Board of Medical Examiners, P.O. Box 183, Trenton, New Jersey 08625-0183.

b) Setting forth in writing any and all reasons why said findings and conclusions should be modified or dismissed.

c) Submitting any and all documents or other written evidence supporting Respondent's request for consideration and reasons therefore or offered in mitigation of penalty.

4. Any submissions will be reviewed by the Board, and the Board will thereafter determine whether further proceedings are necessary. If no material discrepancies are raised through a supplemental submission during the thirty-day period, or if the Board is not persuaded that submitted materials merit further consideration, a Final Order of Discipline will be entered.

5. In the event that Respondent's submissions establish a need for further proceedings, including, but not limited to, an evidentiary hearing, respondent shall be notified with regard thereto. In the event that an evidentiary hearing is ordered, the preliminary findings of fact and conclusions of law contained herein shall serve as notice of the factual and legal allegations in such proceeding. Further, in the event a hearing is held and upon review of the record, the Board shall not be limited to the finding, conclusions and sanctions herein.

NEW JERSEY STATE BOARD OF
MEDICAL EXAMINERS

By:



David Wallace, M.D.
Board President

P.O. 1532-01
/ys
11/20/01
SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY - LAW DIVISION
NOVEMBER TERM A.D. 2001
SECOND STATED SESSION

THE STATE OF NEW JERSEY :

-vs-

LOIS WEIERSTALL

Indictment No. S-2736-01

DEFENDANTS

The Grand Jurors of the State of New Jersey, for the County of Bergen, upon their oaths present as a

FIRST COUNT
(Fourth Degree)

that LOIS WEIERSTALL, on or about, during and between the 1st day of November, 2000 to the 31st day of March, 2001, in the Borough of Paramus, in the County of Bergen, and within the jurisdiction of this Court, did commit criminal sexual contact upon J.M., date of birth 8/23/84, by intentionally touching the victim's breasts, for the purpose of degrading or humiliating the victim or to sexually arouse or sexually gratify the actor, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-3b, and against the peace of this State, the Government and dignity of the same.

SECOND COUNT
(Fourth Degree)

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AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about, during and between the 1st day of January, 2001 to the 31st day of March, 2001, in the Boroughs of Paramus and River

Edge, in the County of Bergen, and within the jurisdiction of this Court, did commit criminal sexual contact upon J.M., date of birth 8/23/84, by intentionally touching the victim's vagina, for the purpose of degrading or humiliating the victim or to sexually arouse or sexually gratify the actor, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-3b, and against the peace of this State, the Government and dignity of the same.

THIRD COUNT
(Second Degree)

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about, during and between the 1st day of January, 2001 to the 31st day of March, 2001, in the Boroughs of Paramus and River Edge, in the County of Bergen, and within the jurisdiction of this Court, did commit sexual assault upon J.M., date of birth 8/23/84, by performing an act of sexual penetration, to wit: digital penetration upon the victim, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-2c(3), and against the peace of this State, the Government and dignity of the same.

FOURTH COUNT
(Second Degree)

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about February of 2001, in the Borough of River Edge, in the County of Bergen, and within the jurisdiction of this Court, did commit sexual assault upon J.M., date of birth 8/23/84, by performing an act of sexual penetration, to wit: cunnilingus upon the victim, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-2c(3), and against the peace of this State, the Government and dignity of the same.

LOIS WEIERSTALL
Defendant
vs.
STATE OF NEW JERSEY
Prosecutor

FIFTH COUNT
(Second Degree)

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about, during and between the 19th day of May, 2001 and the 20th day May, 2001, in the Borough of Bloomfield, in the County of Essex, and within the jurisdiction of this Court, did commit sexual assault upon J.M., date of birth 8/23/84, by performing an act of sexual penetration, to wit: have the victim perform cunnilingus upon the defendant, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-2c(3), and against the peace of this State, the Government and dignity of the same.

SIXTH COUNT
(Second Degree)

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about, during and between the 19th day of May, 2001 and the 20th day of May, 2001, in the Borough of Bloomfield, in the County of Essex, and within the jurisdiction of this Court, did commit sexual assault upon J.M., date of birth 8/23/84, by performing an act of sexual penetration, to wit: digital penetration upon the victim, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim, contrary to the provisions of N.J.S.A. 2C:14-2c(3), and against the peace of this State, the Government and dignity of the same.

SEVENTH COUNT
(Fourth Degree)

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about, during and between the 19th day of May, 2001 and the 20th day of May, 2001, in the Borough of Bloomfield, in the County of Essex, and within the jurisdiction of this Court, did commit criminal sexual contact upon J.M., date of birth 8/23/84, by intentionally touching the victim's vagina, for the purpose of degrading or humiliating the victim or to sexually arouse or sexually gratify

the actor, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-3b, and against the peace of this State, the Government and dignity of the same.

EIGHTH COUNT
(Fourth Degree)

AND the Grand Jurors aforesaid, upon their oaths aforesaid, do further PRESENT that LOIS WEIERSTALL, on or about, during and between the 19th day of May, 2001 and the 20th day of May, 2001, in the Borough of Bloomfield, in the County of Essex, and within the jurisdiction of this Court, did commit criminal sexual contact upon J.M., date of birth 8/23/84, by intentionally touching the victim's breasts, for the purpose of degrading or humiliating the victim or to sexually arouse or sexually gratify the actor, the victim being at least sixteen but less than eighteen years of age and the actor having supervisory or disciplinary power over the victim; contrary to the provisions of N.J.S.A. 2C:14-3b, and against the peace of this State, the Government and dignity of the same.

WILLIAM H. SCHMIDT
BERGEN COUNTY PROSECUTOR


PATRICIA BAGLIVI
By: Assistant Prosecutor

A True Bill


Justice R. J. ... Fore

FILED 10-5007-011-72
EXHIBIT
PAGE 1 OF 1

State of New Jersey

v.

New Jersey Superior Court
Law Division - Criminal
Bergen CountyDefendant: LOIS WEIERSTALL
(Specify complete name) A/K/A LOIS E. WEIERSTALL

Date of Birth: 09/20/1951	SBI Number: 656043C
Date of Arrest: 05/24/2001	Date Indictment/Accusation Filed: 11/20/2001
Date of Original Plea: 01/07/2002	Original Plea: (X) Not Guilty () Guilty

- (X) Judgment of Conviction
() Change of Judgment
() Order for Commitment
() Indictment / Accusation Dismissed
() Judgment of Acquittal

Adjudication by: (X) Guilty Plea () Jury Trial	Date: 06/17/2002	() Non-Jury Trial	Date
		() Dismissed / Acquitted	Date

ORIGINAL CHARGES

IND / ACC NO.	COUNT	DESCRIPTION	DEGREE	STATUTE
01-11-2736-I	1, 2, 7 & 8	CRIMINAL SEXUAL CONTACT	4 TH	2C:14-3B
(1532-01)	3, 4, 5 & 6	SEXUAL ASSAULT	2 ND	2C:14-2C(3)

FINAL CHARGES

COUNT	DESCRIPTION	DEGREE	STATUTE
3	SEXUAL ASSAULT	2 ND	2C:14-2C(3)
(For Sentencing Purposes 3 RD Degree)			

It is therefore, on 09/27/2002 ORDERED and ADJUDGED that the defendant is sentenced as follows:

COUNT 3: FOUR (4) YEARS IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS;
DEFENDANT MUST FORFEIT HER COMPUTER;
DISMISS COUNTS 1, 2, 4, 5, 6, 7 & 8 BY MOTION OF THE STATE.

(MEGAN'S LAW, C.S.L. AND DNA TESTING APPLY.)

- (X) The defendant is hereby sentenced to community supervision for life.
() The defendant is hereby ordered to serve a ____ year term of parole supervision which term shall begin as soon as defendant completes the sentence of incarceration.
() The court finds that the defendant's conduct was characterized by a pattern of repetitive and compulsive behavior.
() The court finds that the defendant is amenable to sex offender treatment.
() The court finds that the defendant is willing to participate in sex offender treatment.
(X) The defendant is hereby ordered to provide a DNA sample and ordered to pay the costs for testing of the sample provided.

(X) It is further ORDERED that the sheriff deliver the defendant to the appropriate correctional authority

(X) Defendant is to receive credit for time spent in custody (R. 3:21-8).

TOTAL NUMBER OF DAYS	DATE (From/To)
1	05/24/2001 - 05/24/2001

() Defendant is to receive gap time credit for time spent in custody (N.J.S.A. 2C:44-5b(2)).

TOTAL NUMBER OF DAYS	DATE (From/To)
1075	


Total Custodial Term FOUR (4) YEARS

Institution DOC

Total Probation Term

FILE 6

DOCKET 0

Total FINE: \$ Total RESTITUTION: \$ <small>If the offense occurred on or after December 23, 1991, an assessment of \$50 is imposed on each count on which the defendant was convicted unless the box below indicates a higher assessment pursuant to N.J.S.A. 2C:43-3.1. (Assessment is \$30 if offense is on or after January 9, 1986 but before December 23, 1991, unless a higher penalty is noted. Assessment is \$25 if offense is before January 9, 1986.)</small> <input checked="" type="checkbox"/> (X) Assessment imposed on count(s): 3 IS EACH \$50.00 Total VCCB Assessment: \$50 <input type="checkbox"/> () Installment payments due at the rate of \$ PER MONTH beginning (date):	If any of the offenses occurred on or after July 9, 1987, and is for a violation of Chapter 35 or 36 of Title 2C: 1) A mandatory Drug Enforcement and Demand Reduction (D.E.D.R.) penalty is imposed for <u>each</u> count. (Write in # times for each) ____ 1st Degree @ \$3000 ____ 2nd Degree @ \$2000 ____ 3rd Degree @ \$1000 ____ 4th Degree @ \$750 ____ Disorderly Persons or Petty Disorderly Persons at \$500 Total D.E.D.R. Penalty () Court further ORDERS that collection of the D.E.D.R. penalty be suspended upon defendant's entry into a residential drug program for the term of the program. 2) A forensic laboratory fee of \$50 per offense is ORDERED Offenses @ \$50 Total lab fees: 3) Name of Drugs involved: 4) A mandatory driver's license suspension of _____ is ORDERED. The suspension shall _____ Driver's License Number _____ (IF THE COURT IS UNABLE TO COLLECT THE LICENSE, PLEASE ALSO COMPLETE THE FOLLOWING.) Defendant's address: _____ Eye color _____ Sex: _____ Date of birth: _____ () The defendant is the holder of an out-of-state driver's license from the following jurisdiction: Driver's License Number: _____ () Defendant's non-resident driving privileges are hereby revoked for _____ months	
<small>If the offense occurred on or after February 1, 1993 and the sentence is to probation or to a State Correctional Facility, a transaction fee of up to \$1.00 is ordered for each occasion when a payment or installment payment is made. (P.L. 1992, c. 169). If the offense occurred on or after March 13, 1995 and the sentence is to probation, or the sentence otherwise requires payments of financial obligations to the probation division, a transaction fee of up to \$2.00 is ordered for each occasion when a payment is made. (P.L. 1995, c. 9).</small>		
<small>If the offense occurred on or after August 2, 1993, a \$75 Safe Neighborhood Services Fund assessment is ordered for each conviction. (P.L. 1993, c. 220)</small> \$75		
<small>If the offense occurred on or after January 5, 1994 and the sentence is to probation, a fee of up to \$25 per month for the probationary term is ordered. (P.L. 1993, c. 273)</small> Amount per month:		
<small>If the crime occurred on or after January 9, 1997, a \$30 Law Enforcement Officers Training and Equipment Fund penalty is ordered</small> \$30		
<small>If the crime occurred on or after May 4, 2001, and the defendant has been convicted of aggravated assault, sexual assault, aggravated criminal sexual contact, kidnapping under 2C:13-1c(2), endangering the welfare of a child by engaging in sexual conduct which would impair or debauch the morals of a minor under 2C:24-4a, endangering the welfare of a child pursuant to 2C:24-4b(4), luring or enticing a child pursuant to 2C:13-6, criminal sexual contact pursuant to 2C:14-3b if the victim is a minor, kidnapping pursuant to 2C:13-1, criminal restraint pursuant to 2C:13-2 or false imprisonment pursuant to 2C:13-3 if the victim is a minor and the offender is not the parent, promoting a child prostitution pursuant to 2C:34-1b(3) or (4), or an attempt to commit any of these crimes, a \$800 Statewide Sexual Assault Nurse Examiner Program Penalty is ordered for each of these offenses.</small>		
Name (Court clerk or Person preparing this form): TERRY TROY	Telephone number: 201-646-3074	Name (Attorney for Defendant at Sentencing): NANCY E. LUCIANNA, ESQ.
FILE # 16-5057-01-1075 EXHIBIT # 2 PAGE 2 OF 2 PAGE		
STATEMENT OF REASONS- Include all applicable aggravating and mitigating factors. <u>Aggravating:</u> (3) The risk that the defendant will commit another offense, (9) The need for deterring the defendant and others from violating the law <u>Mitigating:</u> (7) The defendant has no history of prior delinquency or criminal activity or has led a law-abiding life; (8) The defendant's conduct was the result of circumstances unlikely to recur; (11) The imprisonment of the defendant would entail excessive hardship to himself or his dependents		
JUDGE: JOSEPH S. CONTE, J.S.C.	JUDGE (Signature): 	DATE: 09/27/2002

SUPERIOR COURT OF NEW JERSEY
BERGEN COUNTY
LAW DIVISION - CRIMINAL PART
ACCUSATION NO. S-2736-01
APP. DIV. NO. _____

THE STATE OF NEW JERSEY,

Plaintiff,

vs.

LOIS WEIERSTALL,

Defendant.

TRANSCRIPT

OF

SENTENCE

Place: Bergen County Justice Center
10 Main Street
Hackensack, New Jersey

Date: September 27, 2002

B E F O R E:

HONORABLE JOSEPH S. CONTE, J.S.C.

TRANSCRIPT ORDERED BY:

TOBEY PALAN, ESQ., (Deputy Attorney General)

A P P E A R A N C E S:

PATRICIA BAGLIVI, ESQ.,
Assistant Prosecutor, Bergen County,
Attorney for the State.

NANCY E. LUCIANNA, ESQ., (Nancy E. Lucianna, PC),
Attorney for the Defendant.

Video Recorded By: N/A

TAPE REPORTERS, INC.

Mary Nelson
29 Beach Road
Monmouth Beach, New Jersey 07750
732-263-1191

I N D E X
September 27, 2002

SUMMATION

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BY: Ms. Baglivi	32

THE COURT

Sentence	48
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Colloquy

THE COURT: This the matter of the State of New Jersey versus Lois Weierstall.

Appearances by the State?

MS. BAGLIVI: Patricia Baglivi, assistant prosecutor, for the State.

MS. LUCIANNA: Nancy Lucianna, representing the defendant, Lois Weierstall.

THE COURT: This matter has been adjourned to today to give everyone enough time to submit documents, information to the Court, to have the Avenel. Are both sides ready to proceed?

MS. BAGLIVI: Yes, Judge.

THE COURT: Ms. Lucianna, you did receive a copy of the presentence report?

MS. LUCIANNA: Yes, I did.

THE COURT: Reviewed it with your client?

MS. LUCIANNA: Oh, yes, we reviewed it at length.

THE COURT: Including all the letters?

MS. LUCIANNA: Yes.

THE COURT: The State had a chance to review the memorandum submitted by Ms. Lucianna?

MS. BAGLIVI: No, Judge, I didn't get it.

MS. LUCIANNA: It was delivered yesterday.

MS. BAGLIVI: I did not get it.

Colloquy

4

1 THE COURT: Do you need some --
 2 MS. BAGLIVI: If it was delivered here, my
 3 office is not here.
 4 THE COURT: Do you want some time to review
 5 that?
 6 MS. BAGLIVI: No, Judge.
 7 MS. LUCIANNA: I'll give it to you if you
 8 want it. It was, it was delivered right over here
 9 yesterday afternoon.
 10 MS. BAGLIVI: Right, and my office is not in
 11 the courthouse.
 12 MS. LUCIANNA: Yeah, but they said that they
 13 would give it to you.
 14 MS. BAGLIVI: Okay, but I didn't get it.
 15 It's probably with Mr. Rem's memo.
 16 THE COURT: The State needs -- you're ready
 17 to proceed.
 18 MS. BAGLIVI: Yes.
 19 THE COURT: You know there was quite a few
 20 document submitted by Ms. Lucianna to the Court
 21 pertaining to mitigating factors which should be
 22 considered by this Court.
 23 MS. BAGLIVI: I would assume those are the
 24 letters that Probation already supplied? Is that what
 25 -- the documentation you're talking about?

Colloquy

5

1 MS. LUCIANNA: The letters --
 2 MS. BAGLIVI: Because those I received, the
 3 letters I did receive.
 4 MS. LUCIANNA: The letters that were attached
 5 to discovery that you supplied to me from the victim.
 6 MS. BAGLIVI: Judge, I --
 7 MS. LUCIANNA: I think that's what the judge
 8 is referring to.
 9 MS. BAGLIVI: Judge, I'm sorry. What are you
 10 referring to?
 11 THE COURT: I'm referring to the package that
 12 was delivered to this Court yesterday, September 26th.
 13 The letters were all pretty much included in the first
 14 package that was delivered September 17th.
 15 MS. BAGLIVI: From Probation or from Ms.
 16 Lucianna? Because I was --
 17 THE COURT: From Ms. Lucianna. --
 18 MS. BAGLIVI: Okay.
 19 THE COURT: -- She delivered two packages to
 20 the Court.
 21 MS. BAGLIVI: I got no packages from Ms.
 22 Lucianna. Now I understood there was just one
 23 yesterday. Is there one that was previously delivered?
 24 Because -- I mean, I have the medical that she
 25 submitted. I have all the letters that Probation

1 submitted. Are those what you're referring to? Maybe
2 Ms. Lucianna --

3 THE COURT: Well the first one is cc'd to Mr.
4 Rowlands (phonetic). I'm sure you have that as part of
5 the presentence report.

6 MS. BAGLIVI: Right. Because he did supply
7 me with approximately -- actually three packages. One
8 had only a couple of letters and one had a few more
9 letters in it. So I did receive, on three separate
10 occasions, stacks of letters from Probation.

11 THE COURT: Okay. Yesterday I received a
12 memorandum on behalf of her client. It was ten pages
13 with some exhibits -- quite a few exhibits. I'd just
14 like to have you review it for a few minutes.

15 MS. BAGLIVI: You know, Judge, I really have
16 a problem with the Defense counsel sending something to
17 me yesterday afternoon. If I had received it, when was
18 I going to respond to it? I mean, this sentence --
19 this woman pled guilty back in -- I can't even read the
20 date, but it was probably April. I mean, and the night
21 before the sentencing I get a ten page document, which
22 I didn't even receive. But even if I had, when was I
23 going to respond to it? I mean, I really think it's
24 unfair. I have no problems with her submitting
25 documentation, but could I have a little time to review

1 it?

2 MS. LUCIANNA: Judge, I have a copy of it
3 here for her. It was delivered yesterday afternoon to
4 the Prosecutor's Office. It contained --

5 THE COURT: That is very late though, Ms.
6 Lucianna. I mean, considering the fact the sentencing
7 was set for today, clearly (Indiscernible) afternoon --

8 MS. LUCIANNA: It was in response of
9 receiving the victim's letter, which I just received
10 yesterday, which was stamped the 16th, but I had not
11 gotten it until yesterday when I came down into
12 chambers to see if there was a letter.

13 THE COURT: The Court is ready to proceed, if
14 you wish to have a few minutes to look at the document
15 --

16 MS. BAGLIVI: I don't --

17 MS. LUCIANNA: The two letters --

18 MS. BAGLIVI: -- I am not --

19 MS. LUCIANNA: -- (Indiscernible) --

20 MS. BAGLIVI: -- putting this off. I am not
21 even asking for any time to review it. I would just
22 ask that you just take into consideration in anything
23 that she says in that letter that even if I had
24 received it yesterday afternoon, when was I going to
25 respond to it? And the victim's letter was in the

1 Court's chambers weeks ago and she could have picked it
2 up at any time. It didn't --

3 MS. LUCIANNA: (Indiscernible) --

4 MS. BAGLIVI: -- go through the Prosecutor's
5 Office. If it had I would have given a copy to her.
6 But it went straight to the Court.

7 MS. LUCIANNA: Judge, I don't want to belabor
8 it. It's all the letters that Ms. Baglivi supplied to
9 me. Those are the exhibits, all those e-mails, all
10 those letters, it's State's evidence, which was
11 supplied in discovery, so it's not going to be a
12 surprise to her. Those letters she gave to me as part
13 of discovery.

14 THE COURT: So all those exhibits --

15 MS. LUCIANNA: Yes.

16 THE COURT: -- are part of the discovery --

17 MS. LUCIANNA: That's right.

18 THE COURT: -- that the State would have had
19 or did supply to you.

20 MS. LUCIANNA: Yes. None of that stuff did I
21 get from my client --

22 MS. BAGLIVI: But you said there was a ten
23 page memo that Ms. Lucianna wrote?

24 THE COURT: Yes, a ten page sentencing memo.
25 And attached to that were many exhibits, a lot of them

1 e-mail messages.

2 MS. LUCIANNA: What you gave me.

3 MS. BAGLIVI: Judge, that's not the point.
4 It's a ten page sentencing memo she wrote and I got
5 delivered to my office yesterday afternoon? I'm not
6 challenging the discovery. It's a ten page legal
7 document that she's submitting on behalf of her client
8 that she expects everyone to drop everything yesterday
9 afternoon and read it, giving the Court yesterday
10 afternoon? I mean, I think that's outrageous.

11 MS. LUCIANNA: Judge, I think if she knew
12 that there was this letter that was delivered -- I
13 reached out to find out if there was a letter. And
14 that was about a week ago. I was told that there
15 wasn't a letter. I came down here yesterday and I was
16 shocked to see that there was this letter from the
17 victim. In response to that I wrote the memorandum.
18 Because I think the judge -- I think the Court needs to
19 put this letter in its proper context and it needs to
20 know this information that's in there. It's nothing
21 new to Ms. Baglivi. And what's said in the memorandum,
22 I think she can anticipate what I'm saying in the
23 memorandum --

24 THE COURT: Well let's start. If there's
25 something that comes up as a result of your memorandum

1 that the State needs some more time on --

2 MS. LUCIANNA: I don't think so, Judge.

3 THE COURT: -- in order to have additional
4 review, then we'll grant the State that opportunity.

5 MS. LUCIANNA: I don't think so, but it's up
6 to her. I don't think it's any new information. It's
7 all information that she supplied to me through her
8 office through discovery. And I just wove that
9 information into the facts of the case with the law.
10 That's nothing new.

11 THE COURT: The basic question, any changes,
12 additions or amendments to the presentence report?

13 MS. LUCIANNA: Just one that's, that's
14 important. It's on the first page. Where it says
15 final charges, count three? (Indiscernible) aggravated
16 sexual assault. She pled to one count of sexual
17 assault. It's a second degree, that's correct, but
18 it's labeled sexual assault instead of aggravated
19 sexual assault. I don't want the impression
20 (Indiscernible) that it's a first degree crime.

21 THE COURT: Second degree matter.

22 MS. LUCIANNA: That's right.

23 THE COURT: The State?

24 MS. BAGLIVI: That's correct.

25 THE COURT: You can proceed.

Summation

11

1 MS. LUCIANNA: Judge Conte, I don't know what
2 you think about the defendant, Lois Weierstall right
3 now, but I do know that this Court has probably spent a
4 lot of time, yesterday and last night, reading through
5 all the documents that I submitted on her behalf and
6 that the Probation Department submitted on her behalf.
7 I know the Court probably read those letters over very
8 carefully and maybe over and over again.

9 Judge Conte, you've always impressed me as
10 someone who is an independent thinker, a judge that
11 does not think of his job as perfunctory or irrelevant,
12 a judge that takes care of his sentences, and if there
13 is discretion to be used, will use it in the
14 appropriate case.

15 Judge, in this case there's many letters that
16 I've submitted, probably about 30 character reference
17 letters from people all across the spectrum. From
18 former parents of, parents of former students, a former
19 principal, a chief of police, doctors, family members,
20 friends. They all wrote to you, told you about my
21 client. I'm sure you read them and reread them.

22 Judge, I'm sure there's also a lot of
23 pressure on someone sitting in your chair today.
24 There's a lot of pressure to maybe give the maximum in
25 this, in this case, the maximum sentence. It would be

1 very easy. The plea bargain calls for a maximum of
2 four years. Judge Conte, I'm sure you could just, with
3 the stroke of a pen, give her four years without
4 controversy and nothing would ever be said or
5 criticized by that sentence.

6 Judge, I'd ask you though to (Indiscernible)
7 just listen to us for a couple of minutes. It's
8 important to the defendant. It's important to the
9 family. It's important to a lot of people that love
10 her. And I ask that you take into account all factors
11 in this case and recognize that not every case is the
12 same. There's various shades of criminal conduct in
13 the second degree. There's varying shades of criminal
14 conduct across the board. Not every case is the same.
15 If every case was the same, Judge, then maybe we would
16 just throw all the facts into a computer. We don't --
17 won't need judges or prosecutors or (Indiscernible)
18 Defense attorneys to argue and, and talk in front of
19 you afternoons, and it would just pop out a sentence
20 for everyone. Maybe we would just have a -- no, the
21 Legislature gave you discretion. They have you
22 discretion. And plea bargain gave you discretion.

23 The Legislature has left this Court with
24 what's called residual power. That's 2C:44-1,
25 subdivision D. I'm well acquainted with it. So is the

1 prosecutor. I'm sure the Court is. It's a residual
2 power where you could give probation in a case like
3 this if you find what's called an idiosyncratic
4 (phonetic) defendant. That was unforeseen by the
5 Legislature. And you know those cases, and you know
6 the cases of Jibore (phonetic) and Jarback (phonetic)
7 and Hodge (phonetic) and (Indiscernible), and you know
8 them very well, Judge. I'm going to ask you to
9 consider them in this case.

10 I'm also going to ask you to consider that
11 there is flexibility in the plea agreement, that you
12 can give less than four years. You can, Judge. And I
13 -- and I'm asking you to consider that.

14 Judge, I'm sure while going through all the
15 documents you wondered how did the defendant, Lois
16 Weierstall, how did she become involved in this
17 offense. It befuddles my mind. I think it befuddles
18 her mind, and everyone that loves her and knows her's
19 mind. How did she get involved? This is a woman who
20 comes from a good family, God fearing, hard working
21 people that are of German descent. They're Catholic.
22 The father was a milkman. He was a baker. He worked
23 for American Alloys (phonetic). The mother was a
24 comptroller and a housewife. She's the youngest of
25 three children. She's the only girl in the family.

1 She has two older brothers. They're hard working
2 people.

3 This is a defendant who always worked. She
4 educated herself. She graduated from Wagner College.
5 I think for the most part she grew up in Hudson County,
6 and then the family moved to River Edge, New Jersey.
7 And she worked very hard to pursue a lifelong dream,
8 and that was to be an athletic trainer. And she went
9 on for her masters degree in Indiana and she also
10 taught as an intern at Fairfield University.

11 During the course of her entire 25-year
12 career not one complaint about this, this lady, not one
13 complaint about inappropriate behavior, not one
14 complaint about any type of relationship with any of
15 the students or any of the people that she was
16 training.

17 She worked hard, Judge. And she worked and
18 she became a trainer at Secaucus High School, and then
19 she became a trainer -- an athletic trainer for 14
20 years at Glen Rock High School. And you have a letter
21 from one of the former principals of the school, Mr.
22 Schlang -- Shine (phonetic), saying how well regarded
23 she was, how professional she was, and how loved she
24 was by the students and the faculty. She was someone
25 who took her job so seriously, Judge.

1 For this offense, Judge, she's let a lot of
2 people down. She's lost a lot. She wasn't thinking
3 straight at the time of this incident. Ms. Weierstall,
4 she's led a blameless life for 51 years -- or 49 years,
5 before this happened. With the exception of about five
6 and a half to six months out of her life -- keep in
7 mind she did plead guilty to only one count of sexual
8 assault. The Court recognizes that there was a
9 relationship here between these two people.

10 She's a first offender, Judge. She's never
11 had even an arrest in her background. She's not at all
12 the type of person to become involved with a 16-year-
13 old student.

14 Judge, I don't know if you played varsity
15 sports in high school or college. I did. But I know
16 the, the lack of formality that the coaches and the
17 athletic trainers have with the students when you play
18 sports. It's not as formal of a relationship as a
19 teacher with a student. There is not direct authority
20 and constant authority by the athletic trainer. It's,
21 it's an atmosphere of camaraderie, informality, a lot
22 of friendliness that goes with playing the sport. It's
23 just not as formal. I am not implying in any stretch
24 of the imagination that a relationship with one of the
25 team members is appropriate. That -- I think we have

1 to keep that in mind, that she was an athletic trainer.
2 She wasn't this individual's homeroom teacher or math
3 teacher or social studies teacher. She was someone
4 that trained her when she was playing soccer, played
5 varsity sports.

6 Judge Conte, this lady met this young girl
7 through soccer and through an incident at school that
8 took place. And I think you know about the incident.
9 You read about it in the presentence report. And the
10 defendant at that time was very depressed over the
11 declining health of her parents, her best friend. She
12 was going through changes of her life. And this young
13 girl, the victim, also was having some problems.

14 It, it grew gradually, Your Honor, this -- it
15 became a friendship and then it went into the sexual
16 context. Reading the statement of the victim, I think
17 it's very important in this case. It's attached to the
18 presentence report. The victim uses the words
19 "gradual", that it did evolve gradually. She says that
20 it was mutual touching. She never says anywhere who
21 initiated it first. I think that's important to keep
22 in mind.

23 And there's letters. There's a letter
24 attached to the presentence report, to the original
25 presentence report that I think is very important

1 because in that letter the victim refers to the
2 defendant telling her just wait four months. I don't
3 want to get involved in this. I want to move away from
4 you. I don't think this is right. And she mentions
5 four months -- a four month period to wait. And what
6 that was referring was wait until after you graduate
7 and then this will be somewhat, somewhat of an
8 acceptable relationship, if -- at least it wouldn't
9 have the athletic trainer/student context to it.

10 Reading all the letters, Judge, this
11 defendant tried to end this relationship. It was wrong
12 she even got involved in it. It was wrong she even
13 befriended this girl. Wrong to befriend any of these
14 students, Judge, and I, I believe that. And she
15 realizes that. She realizes that, that it was stupid,
16 it was wrong, it was a lapse of judgement to even get
17 friendly with these people, with this young girl. It
18 could only lead down the road towards bad things.

19 She tried to end. And I know we have those
20 letters. I'm not going to go through them. And it
21 speaks of raw emotions. There's other letters too,
22 Judge, I didn't attach. They're too personal. They're
23 too raw. And I think you can glean from them what was
24 going on here.

25 Sixteen and a half, she was mature for her

1 age. She was getting ready to graduate. I think she
2 had skipped a grade. She was in the last semester of
3 her senior year. She was going to go off to college.
4 And in fact Ms. Weierstall was never going to train her
5 again. And she had finished up varsity sports when
6 this relationship began.

7 By all accounts -- I think she says it was
8 the end of November of 2000. Ms. Weierstall says it
9 was about December. So given the worst case scenario,
10 it was about a six month relationship. And during that
11 time there were numerous e-mails from the victim and
12 from the defendant. Numerous telephone calls and
13 numerous letters importuning and imploring her not to
14 leave the victim.

15 Judge, it is a disturbing case. It's a case
16 that, I'm sure, troubles you in a way. And in reading
17 those letters you can glean from them that during the
18 course of this relationship, the relationship troubled
19 Ms. Weierstall. She indicated to her that she didn't
20 want to harm her, she didn't want to hurt her. In the
21 letters JM says you're not hurting me. I'm the one to
22 give due blame to. That's in the letters, Judge.
23 That's in the letters.

24 She, she was naive and foolish to believe
25 that she was -- that this does not cause harm. She was

1 foolish and naive to believe that. But this young girl
2 was telling her that and she was telling her that in e-
3 mails, telephone calls. I'm the one to give due blame
4 to. I don't want to put you in an awkward position.
5 These are her words. I want to be with you, I love
6 you. These are her words, the victim's words, Judge.

7 One of the mitigating factors is whether she
8 contemplated if she was going to cause serious harm.
9 She did, and then she was told that she wasn't. And
10 then she went along with it and succumbed. Judge, she
11 contemplated it, was lowering herself to the level of
12 the 16 and a half year old because of her depression
13 and her loss of judgement, and everything that she was
14 going through. She regrets to that level too. And
15 continued the relationship, but tried to get out of it
16 on numerous occasions. You have the letters. And it
17 illustrates that. It's undeniable, Your Honor.

18 The victim's letter, Judge, it can't be
19 denied this lady graduated from school. She's living a
20 normal life. She's in college. She has a boyfriend.
21 She's partying. She's studying. She's doing
22 everything that people her age should be doing.

23 Judge, I dare say she didn't write this
24 letter. I don't even know if she signed it. She's not
25 here, no? I think you know that. Judge, I don't know

1 if in her -- word processor, she has built in there a
2 docket number and no docket number. I just don't see
3 that this is something that was penned by her hand.
4 The rights of civil behavior, an 18-year-old, I just
5 don't see it, Judge.

6 But be that as it may, she said some things
7 in here that just don't jive with what's in the
8 evidence of the case. She says that the defendant
9 tried to get her against her parents and her friends.
10 That's not so, Judge. Look at her statement. It's
11 attached to the PSI, presentence report. The statement
12 says that they weren't talking much in April 2001
13 because the victim's parents had confronted Ms.
14 Weierstall and asked if you were having -- if they were
15 having a relationship. She denied it. She told --

16 THE COURT: Ms. Lucianna, could you have your
17 comments go more toward to mitigating towards your
18 client and not so much as to what the victim did? --

19 MS. LUCIANNA: I will, Judge.

20 THE COURT: -- I think that would be more
21 what this Court is concerned with, mitigating towards
22 your client and not to pretty much be saying things
23 when the victim is not here to defend herself. --

24 MS. LUCIANNA: I understand that, Judge, --

25 THE COURT: -- So please (Indiscernible) --

1 MS. LUCIANNA: -- but we do have this letter.
2 And I don't want you to think that the defendant tried
3 to isolate this young girl from her parents and friends
4 because the prosecutor may stand up there and say that.
5 And that that is some type of pattern of sex offenders.
6 I don't want the Court to be given that impression
7 because the victim didn't say that in her statement.
8 She said that -- she said listen to your parents,
9 they're right, they're right. We shouldn't see each
10 other. So she did not try to undermine this young
11 girl's -- the parents' authority over her.

12 Judge, I'm not bringing any of this up to
13 malign this victim. She's blameless. She's 16 and a
14 half years old. We realize that. But there's some
15 inaccuracies in here that I don't want the Court to be
16 given the impression that she tried to isolate her, bad
17 mouth the parents, bad mouth the friends and she'd have
18 her all to herself. That was not the case here. And
19 the victim doesn't even say that in her statement.

20 And, Judge, I think it's important that I
21 brought out the letters not to expose this girl's
22 privacy. I'm not going to bring out what was said in
23 those letters. But I just want the Court to see what
24 context Ms. Weierstall was acting under.

25 Judge, this matter has taken its toll on my

1 client. She's lost everything. She lost her --
2 there's an interim (phonetic) suspending her license to
3 be an athletic trainer. That was a 25 year career.
4 She's lost that. She's lost her livelihood. She's
5 lost the respect that the community and the school once
6 had for her. She's let a lot of people down.

7 Judge, she -- her parents -- she lives with
8 her parents. They're in their eighties. She takes
9 care of them. They're in declining health. They will
10 suffer if she's incarcerated, Judge Conte. They will
11 suffer. She cares for them. She's there for them.
12 And that's one of the mitigating factor, excessive
13 hardship that incarceration will have upon the
14 defendant or her dependents. The parents depend on
15 her.

16 Judge, you've read the psychiatric reports in
17 this case. Dr. Groves (phonetic), he says that
18 incarceration is not the answer, that she's not a
19 pedophile, she's not a repeat offender. This was an
20 isolated case. It's an aberrant case. Her house was
21 searched. Computer was searched. There was nothing
22 indicating that this was any pattern of antisocial
23 behavior. That she's ever been with any other students
24 or children or inappropriate relationships. I think
25 that's important that the Court look at that.

1 That -- he also said that she was very, very
2 depressed and that she had diminished mental capacity
3 at the time of the commission of this offense. Judge,
4 there is a mitigating factor that there is substantial
5 grounds tending to excuse, but not -- but falling short
6 of the defense. And I ask the Court to take that into
7 account, that she was very depressed all the time. We
8 also have the Avenel report, the suicidal ideation.
9 There's a high suicide scale. That is something also I
10 ask the Court to take into account in sentencing.

11 Judge, she has very, very good character.
12 We've had about 25, 30 letters. I'm going to ask the
13 Court after I speak if maybe you'll allow some of these
14 people to speak on her behalf, just about three or
15 four, if the Court will allow it, that are here. And
16 they want to tell you about her. She's not the type of
17 person at all that would repeat this type of conduct.
18 It's not circumstances that are likely to recur.
19 That's another mitigating factor, Judge. It's not
20 likely to recur. No indication you have in the past,
21 no indication it's going to happen in the future.

22 This was a unique, aberrant relationship.
23 And, Judge, I think you should consider that. The
24 effect incarceration would have on her. And her
25 remorse. She has a lot of remorse. You have her

1 letter. She's very sorry for what she did. She
2 recognizes her wrongdoing. She's apologized to the
3 victim, the victim's family, her parents, her friends,
4 the people at the school.

5 Judge, what good is jail going to do for this
6 individual? It's only going to compound what's already
7 happened here. She's lost everything, everything. At
8 51-years-old, if she goes to jail she'll come out,
9 she'll have nothing. She'll have to start over.

10 She recognizes what she did was wrong. She
11 led a blameless life for 49 years with the exception of
12 six terrible, stupid months. Judge, you can give her,
13 you can give her less than the plea bargain. You can.
14 The Legislature has given you that right, that
15 discretion. You can do that.

16 Judge, this is not like some of the other
17 cases we've had in this courthouse. This was not a
18 teacher with a 13-year-old. This was an athletic
19 trainer who had finished training with a 16 and a half
20 year old that was about to graduate. This was not
21 originally a first degree offense that was downgraded
22 to a second degree or a third degree sentencing.
23 That's not this case. These sentences have to have
24 some power. They've got to make some sense. There's
25 got to be some type of evenhandedness across the board

1 with these types of offenses where one person doesn't
2 get less time that committed a more serious act than
3 another person with a less serious act gets more time
4 than that individual. Judge, that can't occur here.

5 And I'm sure the Court recognizes that, that
6 there are varying shades of criminal conduct. And some
7 people's conduct are less than others who have pled to
8 the same offenses. And some people's conduct have
9 extenuate -- more extenuating circumstances than other
10 offenders.

11 Your Honor, I ask that you take into account
12 all factors in this case. This is not a case like the
13 other case like we had a couple of months ago. This
14 Court has -- it's not the Jibore case, which you
15 probably reread over last night, about the residual
16 powers. The case that Ms. Baglivi had and I had. That
17 was a five-year-old girl that was involved in that
18 case, a five-year-old stranger.

19 That's not this case, Judge. And I submit to
20 Your Honor that a jail sentence is not going to do any
21 good here. If you feel that jail is appropriate I'd
22 ask that this Court consider the least amount of time
23 under the plea bargain and to impose the least, which
24 would be the three years.

25 Judge, I don't know what the prosecutor is

1 going to say in this case, but she's probably going to
2 renounce this lady, that there was harm to the victim.
3 She's going to say that -- I feel about that. The
4 defendant feels bad about that. But she has tried to
5 make amends. She's suffered immeasurably,
6 immeasurably. And I ask that the Court sentence her to
7 the minimum time possible. Thank you.

8 THE COURT: Do you wish to have your client
9 address the Court or one of the family members at this
10 time or friends?

11 MS. LUCIANNA: Can we have both? Judge, I
12 would just like her briefly --

13 THE COURT: One at a time, yes, of course.

14 MS. LUCIANNA: Thank you. I'd like the
15 defendant, Ms. Weierstall, to say something, and then
16 --

17 THE COURT: Okay.

18 MS. LUCIANNA: -- I'll pick three or four
19 people, no more, Judge.

20 THE COURT: Mr. Weierstall?

21 MS. WEIERSTALL: Your Honor has my statement
22 before him and you have had her correspondence to me.
23 I would like to express my deepest regrets for this
24 incident. I apologize for Jenna (phonetic) for any
25 pain, shame or embarrassment this may have caused her

1 and her family. I apologize to my parents, family and
2 friends, the students, their parents, my colleagues at
3 Glen Rock, as well as though I have cared for and
4 worked with for 25 years.

5 Your Honor, I have lost everything, my job,
6 my certifications, and I have lost respect. Working at
7 Glen Rock was everything to me. I dedicated many hours
8 over the years working with thousands of athletes.
9 Parents and coaches had confidence in me. They knew
10 that utmost in my mind was the health and well-being of
11 their athletes. The athletes knew I cared about them
12 and respected them. In return they cared about me and
13 respected me.

14 I once received a plaque from the baseball
15 team which read, quote, "A hundred years from now it
16 will not matter what my bank account was, the sort of
17 house I've lived in or the kind of car I drove. But
18 the world may be different because I was important in
19 the life of a child."

20 I was important in the lives of many
21 athletes. I was successful at my job and had the
22 confidence of the athletes and their parents. I cannot
23 condone nor excuse my actions that led me to this
24 point. I only know that I am truly sorry. My goal in
25 life has always been to help and give to others. My

1 actions were so out of character for me. I should have
2 been wiser and thoughtful.

3 A nervous baseball player once asked my
4 advice about how he should act if they lost the final
5 state game. I told him, which he later quoted for the
6 newspaper, that no matter what, whether win or lose,
7 you should act with class, style and dignity.

8 I stand before you having made a mistake,
9 Your Honor. With the deepest regret and remorse I ask
10 Jenna, family, friends and the Court for forgiveness
11 and for a second chance.

12 THE COURT: Ms. Lucianna, do you wish to have
13 someone else speak?

14 MS. LUCIANNA: Yes, a brother. Richard?

15 Ms. Weierstall's brother.

16 MR. WEIERSTALL: Judge Conte, --

17 THE COURT: Yes.

18 MR. WEIERSTALL: -- may name is Richard
19 Weierstall, brother of Lois. I wanted to speak on
20 behalf of my parents, myself and my brother in this.
21 Excuse me. In all the years we've known her, which is
22 (Indiscernible), she has shown nothing but compassion
23 and a desire to help people. This all (Indiscernible)
24 befuddled us from the very beginning. Ms. Lucianna
25 explained it very nicely. And we feel -- we share her

1 pain and we feel her pain. And on behalf of the
2 family, her friends, but especially Lois, I could only
3 ask for mercy. I know there are no other words to
4 request what needs to be done. Thank you.

5 THE COURT: Ms. Lucianna, do you have someone
6 else?

7 MS. LUCIANNA: Yes.

8 Maryanne?

9 Maryanne Oriem (phonetic).

10 MS. ORIEM: Good morning, Your Honor. My
11 name is Maryanne Oriem. I know you know me because I
12 practiced before Your Honor and in this county. I have
13 to say she was said and distraught by this event, but
14 the -- I know Lois for probably ten, fifteen years.
15 She has been a very good friend to me in my life, with
16 my partner of 25 years. She has assisted me many times
17 in caring for my life partner who suffers with a
18 debilitating disease of Parkinsons. Lois and her
19 parents have been guests in my home on Christmas Day
20 for a good many years, for Christmas dinner. I have
21 great love and respect for her parents and I have a
22 great love and respect for Lois.

23 I have nieces the age of the victim and I
24 have never in my life, and still never have any qualms
25 with my good friend Lois being in their company. I

1 think -- as much as I have a very hard time with this
2 (Indiscernible) occurred, I believe that my friend was
3 suffering from severe depression. I had asked her on
4 several occasion to maybe begin therapy.

5 And, and this event was a clear aberration in
6 her character. She is a very kind and giving and
7 loving person. And perhaps to a fault. And that this
8 time this mistake has cost her everything. And I'm
9 concerned, Your Honor, clearly that I have seen this
10 taking a physical and emotional toll on her parents,
11 who are, are not just in their eighties, but I believe
12 closing in on ninety. And I'm concerned that, that
13 this will cause them a severe decline in their health.
14 And I'm afraid they'll pass away while she's in prison.
15 And I'm also concerned -- my partner and I have
16 discussed this on several occasions, that we think that
17 jail may be a very harsh sentence as far as we're
18 concerned, and she may become a victim of suicide.

19 I know she's extremely distraught, extremely
20 remorseful. Anytime I have visited with her in this
21 (Indiscernible) any discussion has just brought her to
22 tears.

23 I can only beg Your Honor to show some mercy,
24 not only for my friend, but for her elderly parents and
25 impose the minimum sentence that you can under the law.

1 Thank you for your time, Your Honor.

2 MS. LUCIANNA: Ms. Galvin (phonetic)?

3 MS. GALVIN: Judge Conte, my name is Mary
4 Ellen Galvin, and I met Lois when my daughter was a
5 student in the high school. She's since graduated and
6 isn't (Indiscernible) daily contact with Lois. But
7 during that time Lois was professional, compassionate,
8 encouraging, just a warm person that she could -- my
9 daughter could turn to when she needed assistance
10 during all sports that she played.

11 Since, since that time she graduated we've
12 become friends with Lois and Lois has come to my home
13 and our home on many, many occasions. And Lois --
14 everyone is saying -- and it's true, that Lois has lost
15 a lot. She is just totally remorseful for what she's
16 done and very apologetic to everyone, including the
17 victim's family.

18 The one thing she hasn't lost is the
19 friendship, love and support of everyone who came here
20 for her today. So I join with, with everyone who is
21 here in her support to ask for your leniency because
22 there is nothing else she has to lose. Thank you for
23 your time.

24 MS. LUCIANNA: Just one more, Judge.
25 Paul White?

1 MR. WHITE: Your Honor, my name is Paul
2 White. I teach at Glen Rock High School and I coach
3 there. I coached football, track and cross country
4 boys and girls. I've known Lois 14 years. I took my
5 own daughters to her when they were injured in
6 athletics. She's one of the finest people I have
7 known. This is an aberration. She would do anything
8 for the students at Glen Rock. Our awards
9 (Indiscernible) there was one thing you could always
10 count on, on awards night, that every team that night
11 would give Lois flowers, a plaque, something. The kids
12 knew she was the one person in the system that didn't
13 care about winning or losing, but cared about them.

14 As a coach what I liked about having Lois
15 around, she was my conscience. When a kid was hurt and
16 I wondered whether I'm going to put him back in, she
17 was looking out for the kid.

18 She's a wonderful person. This is an
19 aberration. She is thought highly of in the community.
20 She's suffered tremendously. I can only beg Your Honor
21 on behalf -- for mercy.

22 MS. LUCIANNA: Thank you, Judge.

23 THE COURT: Ms. Baglivi.

24 MS. BAGLIVI: Your Honor, there's, there's
25 tears on both sides of this courtroom. There's tears

1 on the defendant's side for -- her family is upset
2 about what's going on here. And there's tears on the
3 other side of the courtroom where this victim's parents
4 sit here. And you know what, Judge? There's only
5 person responsible for all the bad feelings here today,
6 and that is from the defendant. It is because of her
7 that we are here.

8 And, Judge, I would like to apologize to the
9 victim's family for them to have to sit here and listen
10 to the defendant through her attorney blame the victim.
11 And, Judge, I was glad that you finally put a stop to
12 it because quite honestly, I was going to stand up and
13 object.

14 There were comments like who initiated this
15 contact between this teacher and this student, because
16 that would be important. Judge, why is that important?
17 It's irrelevant. The statute was written to protect
18 children. It doesn't matter who initiated.

19 Defendant says -- or through Defense counsel
20 says well the defendant tried to end it, and the victim
21 says I love you. And let's blame the parents.
22 Everything that she said here today -- I heard no
23 remorse, no empathy for this victim. All's (sic) I
24 heard about is her. And let's blame the victim. And I
25 think that is disgraceful.

1 Ms. Lucianna stands up here and says judge, I
2 don't know who wrote this letter. I don't know who
3 signed this letter. Well, Judge, I'm here to tell you,
4 number one, I cannot believe that Ms. Lucianna even
5 said that. The parents have not even seen this letter.
6 This letter did not go through them. When I spoke to
7 the mother about this she said I haven't even seen the
8 letter. This letter came from the victim. The victim
9 wrote it. The victim signed it. The parents don't
10 even -- haven't even seen it, and I didn't even show it
11 to them this morning. So for her to stand up and say I
12 don't know who wrote this letter?

13 Judge, I'd like to talk about what this
14 letter says, because we keep talking about let's blame
15 the victim and the victim is away at school and she's
16 having a grand old time, and this is not affecting her.
17 That is so far from the truth. And, Judge, we will
18 never know what kind of emotional harm was done on this
19 child because she was a child. Mr. Lucianna said she
20 was 16 and a half. This sexual relationship, romantic
21 relationship started when the victim was 14 and ended
22 when she was 16 and a half. Ms. Weierstall even says
23 that to Avenel. And I'll get into Avenel in a minute.
24 But the victim says -- she wrote directly to
25 the Court. She didn't cc the prosecutor. She didn't

1 let her parents see it. This letter came straight to
2 the Court from her.

3 "To put trust in an authority figure at a
4 young age would seem like a natural thing to do. Why
5 would a kid question someone they thought they could
6 trust? Throughout this difficult situation I have
7 certainly felt many different ways. I have finally
8 come to know without any doubt or uncertainty how I
9 really feel. I feel I was manipulated, coerced,
10 violated and certainly abused by this woman, Lois
11 Weierstall. This person made me honestly believe that
12 I wanted things that I now know I certainly did not and
13 never really wanted. She made me lose trust and faith
14 in my parents and also my best friends. Put all of
15 this together and she has pretty much ruined a big part
16 of my life. It is because of her I did not and could
17 enjoy high school the way I should have. Because of
18 all the publicity and media attention people in my
19 community, people I have looked up to, now frown upon
20 me. Once a rather secure person, I am now
21 uncomfortable and unsure of myself the second I walk
22 out my front door. That feeling may never truly go
23 away."

24 When I spoke to the mother of the victim on
25 this case on a couple of different occasions she said

1 to me I can't understand; my daughter's friends and
 2 their mothers are now not allowing my daughter to play
 3 with their daughters. Society has to learn that this
 4 is not the victim's fault. But people unfortunately
 5 still do. And even the townspeople are doing that.
 6 And I think that's a very sad commentary.

7 But this -- you know, Ms. Weierstall stands
 8 up and the first things out of her mouth is look at all
 9 the, you know, the correspondence between us. Judge,
 10 it was between a child and an adult. And we're not
 11 talking about a 22-year-old teacher. We're talking
 12 about a 50-year-old woman who should have known better.

13 And what she has done to this child we will
 14 never really know, but I think you're getting a sense
 15 of this. Her whole last year of high school was
 16 ruined. People knew, no matter how much the press and
 17 the pub -- and the Prosecutor's Office tried to keep
 18 the name of the victim out, everyone knew who it was.
 19 And she's still feeling that effects now. She has to
 20 return home from school holidays back to that town.
 21 And all because of this defendant she feels she can't
 22 hold her head up high.

23 Ms. Lucianna says the defendant is depressed.
 24 She suffers from diminished mental capacity. She has
 25 all these kinds of problems, she's suicidal. Well,

1 Judge, all of those things happened after she got
 2 arrested for this charge. She's suicidal because she
 3 got caught and she's now facing time.

4 Avenel did not find her compulsive and
 5 repetitive, but there's some things in here that they
 6 say that are very disturbing. On page three of the
 7 report they talk about when they give her all these
 8 different types of sex offender tests.

9 "She agreed with six potentially distorted
 10 beliefs about children and child --

11 MS. LUCIANNA: Judge, I --

12 MS. BAGLIVI: -- molesting --

13 MS. LUCIANNA: -- (Indiscernible) -- she
 14 didn't object to mine, but I know -- this is just --

15 MS. BAGLIVI: Judge, this is part of
 16 sentencing --

17 MS. LUCIANNA: -- you have the report. They
 18 found her not to be repetitive and compulsive. And I
 19 think it's clearly inappropriate for her to quote from
 20 that report. It's a confidential report.

21 MS. BAGLIVI: Absolutely not. It's part of
 22 the sentencing, Your Honor.

23 THE COURT: I always have a concern when
 24 either side starts quoting from the confidential Avenel
 25 report. I will allow the State to summarize as to what

1 is in that report, but not to quote directly from the
2 report. So if you could please do that. Sustain the
3 objection in part.

4 MS. BAGLIVI: Judge, I, I -- this is experts
5 that examined this woman that put down what they found.
6 I think it's very important for the Court to be made
7 aware of it. --

8 THE COURT: I read it.

9 MS. BAGLIVI: -- And I have no intentions of
10 reading the whole report. But there are statements in
11 here the Court needs to key in on.

12 THE COURT: I've read them all --

13 MS. BAGLIVI: If you want me to paraphrase
14 it. --

15 THE COURT: -- no, I'm --

16 MS. BAGLIVI: -- I'm not a medical expert.

17 THE COURT: Which section are you referring
18 to? --

19 MS. BAGLIVI: Well there's a couple of places
20 where I, I, I have marked off. Page three, where they
21 talk about beliefs in these statements, the statement I
22 was just referring to. "... are sometimes to provide
23 justification to adults who sexually abuse children and
24 teenagers."

25 The fact that she validated some of these is

1 of great concern to me. And it was great concern to
2 Avenel.

3 Additionally -- and I think this is borne out
4 by her own statement here today.

5 "Her insight at the time appeared poor. Her
6 social judgement was fair. She tended to minimize or
7 ignore the age difference and the fact that she was a
8 school official and JM was a student."

9 Now Ms. Lucianna says well she wasn't the
10 homeroom student -- the homeroom teacher. I don't know
11 if that makes it any better or any worse. So if it's
12 the principal, if he's not the homeroom teacher it
13 should be ignored? She's the athletic trainer? She's
14 a school official. There was a relationship. She was
15 able to discipline the student. That's what makes it a
16 crime.

17 And, Judge, Ms. Lucianna -- that's where I
18 wanted to bring out the thing about the defendant --
19 this relationship started when she was -- the victim
20 was 14.

21 And she says to Avenel, "The relationship
22 with M -- JM actually began when JM was a child. The
23 relationship did not become a friendship or a
24 relationship until JM was about 14."

25 So they're saying that this was an isolated

1 incident over a short period of time is not true. This
2 was over two and a half years.

3 During the interview with Avenel they said
4 that she showed that she was defensive and showed
5 distorted thinking and beliefs with regards to her
6 relationship with the victim in this case.

7 Judge, to summarize what Avenel is saying is
8 she has no insight, and to this day when she's
9 interviewed by Avenel she has no insight into the harm
10 that she did. And again, it was borne out by the
11 comments that were made that blame the victim, blame
12 the victim.

13 It is about time she took responsibility for
14 what she did. She's a 50-year-old woman. As I said,
15 she's not some 22-year-old teacher first starting out
16 in life. She knew what she did was wrong.

17 She pled guilty, Your Honor, to a second
18 degree crime, sexual assault. The State agreed for,
19 for a marry -- a myriad of different reasons to allow
20 it to be sentence as to one degree lower, four year
21 sentence. Your Honor, that is the appropriate sentence
22 in this case when we're dealing with a situation as
23 this. Ms. Lucianna says well you just can't plug in
24 some numbers and say well this one got this and this
25 one should get this. And I agree with her. You can't

1 do that. So to say well on one case you only gave a
2 student and a teacher relationship three years, so this
3 one should be three years, each case is different.

4 And this case was a longer period of time.

5 And yes, there are -- there is many -- strike
6 that.

7 There were many letters written on Ms.
8 Weierstall's behalf. I understand that. The fact that
9 she had no prior convictions, the fact that she led a
10 law abiding life, all those things were taken into
11 consideration when the plea offer was fashioned. She
12 would never have gotten the benefit of this type of
13 offer if there had been anything like that in her
14 background.

15 Yes, people wrote letters on her behalf. And
16 what I think is interesting to note, and actually what
17 I find quite appalling is that people from the school
18 wrote letters on her behalf and never once -- and
19 someone got up here and talked on her behalf. And not
20 once mentioned anything about the victim, showed any
21 empathy or sympathy for the victim. And I find that
22 very appalling. Not for her family not to do it. I
23 understand that. But for school officials to write on
24 her behalf and never mention that child that was in the
25 school system. They had an obligation to protect her.

1 And then they stand up here and talk about her and
2 nobody mentions the victim. I find that is really
3 appalling. It is a concern of mine that the Glen Rock
4 school system -- and it's not all of the Glen Rock
5 school system -- but certain people would write letters
6 on her behalf, an admitted child molester, and say
7 nothing about the one person that they were supposed to
8 protect.

9 I think people -- citizens in Bergen County
10 and citizens in the state of New Jersey have a right to
11 send their children to school and feel secure in the
12 knowledge that those children will be protected. And I
13 think it's a safe commentary that lately we seem to be
14 standing up here a lot on these types of cases. That
15 you can't -- the one place other than home, where
16 children should be safe, the schools, they're not safe
17 anymore. And while it is only a small number, I think
18 it is, it is a sad commentary that we have to worry now
19 about teachers.

20 And she would have known, and she violated
21 that trust. And she didn't violate it with this
22 victim. She violated it with all the children that
23 came under her control.

24 The victim's parents are here today. No, the
25 victim is not here. She's away at school. I wasn't

1 going to drag her down from college so that she could
2 make a statement here. No, she's not here. Does that
3 mean she wasn't affected by this? Not at all. Her
4 parents are here. They sat here all morning. They had
5 to sit here and listen to all of what was said about
6 them, about their daughter, blaming them for all of
7 this. And I do believe one of them would like to say a
8 few words.

9 THE COURT: You do not have to state your
10 last name, so --

11 MS. BAGLIVI: Judge, these are the parents of
12 the victim.

13 UNIDENTIFIED: Judge, I hadn't planned on
14 really saying anything. We wanted to show up and be
15 present. But in light of everything that I've heard
16 this morning I just couldn't feel that -- I'd like to
17 say what's on my mind about it.

18 This has been the most traumatic experience
19 in our entire lives. And it's affected our
20 relationship with our daughter, and it's taken us a
21 very long time to be able to get back and restabilize
22 that. And what disturbs me is that, while I appreciate
23 everybody's sentiments -- we've been in that school
24 system for a long time. My kids have been taught by
25 teachers -- Mr. White was one of the instructors. But

1 never did I get a phone call from Mr. White to see how
2 Jenna had done. None of those people in that 30
3 letters ever called us or contacted us about the
4 experience that we went through

5 And the, the really difficult part about it
6 is that she's 14-years-old. She was the youngest
7 person in her grade, very impressionable, trying to,
8 trying to be successful on her soccer team. And she
9 was looking for, for mentoring and guidance where,
10 wherever she could find it. And the betrayal of trust
11 associated with it -- because I could have been one of
12 those 30 letters. Two years ago I could have sent one
13 of those letters.

14 But what was the motivation about what was
15 going on there? And that's my question. And I
16 question the character very much here because the
17 deception and the, and the calculated behavior is not
18 what we've seen in this court this morning.

19 Lois came to our home too. She came to offer
20 to help paint the house and we thought gee, that's a
21 very nice thing to do in whatever relationship she has
22 with our daughter. And before she came we found some
23 letters that were very disturbing, indicating that our
24 daughter was involved in some kind of a relationship
25 with an older person. And so here is somebody that was

1 a mentor that we wanted to give every opportunity. But
2 we had our suspicions at that point to say Lois, you're
3 very close to our daughter. And if there's anything
4 inappropriate going on I'm sure you'd let us know. She
5 said oh, yes, yes, absolutely. There's nothing I'm
6 aware of that's going on. Two days later those letters
7 disappeared from the room.

8 And sometime later there was a continuation
9 of that type of behavior even though we said we would
10 do everything we can to protect her in this, in this
11 situation.

12 So I don't know if that indicates compulsive
13 behavior or not, but it's not appropriate behavior, and
14 it's not appropriate behavior for someone that a child
15 looks up to and is looking for guidance and direction.

16 And I'm, and I'm really very upset at the
17 school system because if we're more concerned about our
18 reputations and our towns and what comes out, then
19 we've got a real problem because it would have been
20 much more appropriate for some of those folks to be
21 giving us a call and see what the experience that we
22 have gone through in this.

23 I just (Indiscernible) -- and it still pains
24 when, when my daughter talks about how she's been
25 alienated within people in town. This is the town that

1 I lived in, that those kids grew up -- I went to this
2 high school. My kids went to this high school.
3 There's people that I've known for a long time. There
4 are teachers that taught me and have since left and
5 retired that we've had wonderful relationships with.
6 And now we're alienated in our own town because kids
7 are not allowed to associate with my daughter for this
8 having happened to her? It's outrageous. It's just
9 outrageous.

10 MS. BAGLIVI: Judge, just briefly to sum up
11 --

12 THE COURT: Ms. Baglivi.

13 MS. BAGLIVI: -- Ms. Lucianna says that she
14 can be considered the idiosyncratic defendant. Judge,
15 there's nothing here to suggest that. She -- the fact
16 that she has elderly parents, many people before you
17 have elderly parents that they need to take care of.
18 There is other family and friends, I am sure, that can
19 step in. This defendant does not rise to that level.
20 There would be no reason to put her on probation. She
21 needs to be punished. She needs to be told that this
22 was wrong, not inappropriate, criminally wrong. And I
23 ask that you send that message to her and send that
24 message loud and clear to everybody that would
25 contemplate doing this.

1 MS. LUCIANNA: Judge, can I just say one
2 thing? And I won't belabor the point. But this is the
3 same prosecutor that offered three years of PIP here.
4 Nothing has changed. This offense hasn't gotten worse
5 since that PIP hearing a couple of months ago. She
6 didn't mention to the Court.

7 Judge, this was not a two year sexual
8 relationship. It wasn't -- what she meant by that, it
9 was a two year friendship. The victim herself said it
10 was about six months. She said it started in November
11 of 2001. There's nothing to indicate here that it
12 began when she was 14-years-old. So I don't want the
13 Court to get that impression. That's when she started
14 training her and that's when they became friendly.

15 Judge, Dr. Groves (phonetic) used to work at
16 Avenel. He doesn't find her to be a sex offender.
17 Avenel found that she is not repetitive and compulsive
18 as well. I don't want you to hold those comments
19 against her. She is not responsible for what happened
20 in the community, these girls who now shun her. She is
21 not responsible for that, Judge. She is responsible
22 for what she did and she took responsibility in her
23 letter to the Court. She didn't minimize it. She, she
24 said that she was very sorry and that she was the adult
25 in this relationship and that she -- naturally a

1 student would look to her for guidance. She took
2 responsibility. And she feels bad about it, Judge.

3 And I'd ask that you consider a minimal
4 sentence in the plea bargain. Thank you.

5 MS. BAGLIVI: Judge, I -- you know, this is
6 the second time this morning that I've heard somebody
7 bring up plea negotiations. That is irrelevant. The
8 plea negotiations in this case called for a four year
9 sentence. That is what she bargained for. And I know
10 the Court can go lower, but I, I really find it
11 inappropriate -- it would be like me standing up here
12 and saying well the defendant admitted certain things
13 through her attorney to me through plea negotiations.
14 That is totally improper and I have a problem with Ms.
15 Lucianna doing that. And I would ask that you not
16 consider that.

17 MS. LUCIANNA: I think you should, Judge.
18 This is not gamesmanship. This is someone's life.
19 She, she offered it a couple of months ago, three
20 years, and the judge gave the PIP court. Nothing has
21 changed since that time.

22 MS. BAGLIVI: She didn't take it. Maybe she
23 should have taken it, but she didn't. She made me put
24 the victim through six more months of probably -- I
25 don't want to use the word that I wanted to use, but

1 probably six months of bad times because this defendant
2 couldn't decide what she wanted to do. She now
3 bargained for four years. And that was only because
4 Ms. Lucianna kept coming over and over and over again.
5 Because quite honestly, the plea offer wasn't four
6 years any longer. It was higher.

7 THE COURT: Okay. The Defense has said to
8 the Court, the Court should sentence according to this
9 case and not rely upon what other judges have done in
10 other cases. The State has said please send a message
11 to the community.

12 I will decide this case based upon the facts
13 and information that pertain to this case only, not
14 what any other judge in any other case or any message
15 that should be sent to society.

16 I will express, though, there is a concern
17 that you send your children to school or have your
18 children involved in sporting events and you're hoping
19 that they're protected and safe. And unfortunately in
20 this particular case they were not.

21 There was a comment by Ms. Lucianna as far as
22 that -- her client was not repetitive. That's not what
23 Avenel says. It says that she was clearly repetitive
24 She was not compulsive, therefore, not a subject to
25 Avenel.

1 The victim and the family have sent me
2 letters. Friends of Ms. Weierstall have sent me
3 letters. There is mention, of course, that she has no
4 criminal record. Unfortunately she was in that
5 position because she had no criminal record. If she
6 had a criminal record she would not be working with
7 children. So society, whether it's Glen Rock, protects
8 or feels comfortable with their teachers because they
9 have no criminal record. And almost every sex offender
10 that I have sentenced has no prior criminal record.

11 She was in a position of trust with a
12 student. That trust relationship started at 14. Mr.
13 Weierstall was probably 48 at that time. Until the
14 girl was 16 and a half.

15 Ms. Lucianna says this is a special case.
16 Judge, look at your bar, some of the other cases. I've
17 looked at all the other cases. This does not
18 (Indiscernible) in any of the requirements for a
19 probation sentence. It does not, it does not meet
20 those requirements. There is comments that your client
21 is suicidal. Those are comments that have been
22 mentioned in other cases. There's comments that your
23 client's family is older. It does not.

24 The Courts have told me no matter how many
25 mitigating factors you have, it may not fall within the

1 preview (sic) of the lesser sentence.

2 The victim sent me a letter and one of the
3 things that she mentioned in that letter, which I think
4 should be mentioned, is that she believes that Ms.
5 Weierstall should be prosecuted to the fullest extent.

6 "... if not just for the pain that I've gone
7 through, but the pain my community went through. They
8 trusted their children to her and now everyone has a
9 little more doubt and wonder in their minds how safe
10 their children are."

11 It's a very important aspect of the sentence
12 of this Court. I read the Avenel very clearly and
13 closely and I feel that there is a risk that you will
14 commit another offense, the need to deter you.

15 I find as mitigating factors, she has no
16 prior history of any criminal activity. I will find
17 number eight, that the conduct result of circumstances
18 unlikely to reoccur. And (Indiscernible) excessive
19 hardship on her family members.

20 I think the fact that this is a second
21 degree, the State offered a sentence in the range of a
22 third degree, that the plea offer should be the
23 appropriate sentence in this matter.

24 Ms. Weierstall, I sentence you to the custody
25 and commission of the Department of Corrections for a

1 period of four years. There is a fine of \$50 Violent
2 Crimes, \$75 Safe and Secure Community Fund, \$30 Law
3 Enforcement. I think there is one day jail time
4 credit. You will serve approximately nine months and
5 28 days as a result of that sentence before you're
6 eligible for parole. You'll have to comply with all
7 the Megan's Law requirements, community service, for
8 life and DNA testing. You have a right to file an
9 appeal. If you cannot afford an attorney one will be
10 appointed to represent you by the State.

11 MS. BAGLIVI: Judge, she also agreed to
12 forfeit the computer (Indiscernible). You ordered
13 that. And also would move to dismiss counts one, two,
14 four, five, six, seven and eight.

15 THE COURT: So indicated.

16 MS. BAGLIVI: Thank you.

17 THE COURT: I would like to have the, the --
18 both the friends and family just remain here until the
19 sheriff's officers could ask them to leave separately.
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25

CERTIFICATION

1
2
3
4 I, Mary Nelson, the assigned transcriber, do
5 hereby certify the foregoing Transcript of Proceedings
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